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Title 28 EDUCATION

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Title 28

EDUCATION

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Chapter 1. Introduction

§101. The IEP Process and Evaluation/Reevaluation of Students with Disabilities

A. This section emphasizes the IEP process as one intertwined with the process of evaluation and re-evaluation of students with disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1463 (July 2004).

§103. The Three Types of IEPs

A. The three types of IEPs are outlined below as follows.

1. The INTERIM IEP shall be developed for students who have severe or low incidence impairments documented by a qualified professional concurrent with the conduct of an evaluation according to the *Pupil Appraisal Handbook*. The interim IEP may also be developed for students who have been receiving special educational services in another state concurrent with the conduct of an evaluation. An interim IEP may also be developed for students out of school, including students ages 3-5, who are suspected of having a disability and for former special education students, through the age of 22, who have left a public school without completing their public education by obtaining a state diploma.

2. The INITIAL IEP is developed for a student with disabilities who has met criteria for one or more exceptionalities outlined in the *Pupil Appraisal Handbook* and who has never received special educational services, except through an interim IEP, from an approved Louisiana school/program.

3. The REVIEW IEP is reviewed and revised at least annually or more frequently to consider the appropriateness of the program, placement, and any related services needed by the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1463 (July 2004).

Chapter 3. Initial IEP Development

§301. Responsibilities

A. A student is initially determined to be exceptional through the individual evaluation process. The responsibility for making a formal commitment of resources to ensure a free, appropriate public education (FAPE) for a student identified as exceptional rests with the local education agency (LEA) in which the student resides.

B. The LEA is responsible for initiating the assurance of FAPE regardless of whether the system will:

1. provide all of the service directly or through interagency agreements;
2. place the student in another system or in a nonpublic facility; or
3. refer the student to another LEA for educational purposes.

C. The responsibility for offering FAPE is met through the process of developing an initial IEP. This process includes:

1. communication between the LEA and the parents;
2. IEP meeting(s) at which parents and school personnel make joint decisions and resolve any differences about the student's needs and services;
3. a completed IEP/placement document, which describes the decisions made during the meeting(s), including the special education and related services that are to be provided;
4. a formal assurance by the LEA that the services described in the document will be provided;
5. parental consent for initial placement;
6. procedural safeguards for differences that cannot be resolved mutually; and
7. initial placement and provision of services as described in the IEP/placement document.

D. The LEA is required to offer FAPE to those students with disabilities whose ages fall between 3 and 21 years. The LEA may choose to offer and provide services to young children with disabilities, birth through 2 years of age. If the LEA chooses to provide services, all the requirements of FAPE apply.

1. The child is eligible for FAPE on his 3rd birthday.
2. The responsibility for providing services to a student with disabilities continues until
 - a. the student receives a state diploma; or
 - b. the student reaches his or her 22nd birthday. (If the 22nd birthday occurs during the course of the regular school session, the student shall be allowed to remain in school for the remainder of the school year.)
3. The LEA is not responsible for providing FAPE if, after carefully documenting that the agency has offered FAPE via an IEP, the parents choose to voluntarily enroll the student elsewhere or indicate their refusal of special

educational services. Documentation of these parental decisions should be kept on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1463 (July 2004).

§303. Timelines

A. An initial evaluation is considered "completed" when the written report has been disseminated by the pupil appraisal staff to the administrator of special education programs. A LEA has a maximum of 30 calendar days to complete the IEP/placement document for an eligible student. During this time, two activities must take place and be documented.

1. Written Notice(s) that the LEA proposes to provide FAPE through the IEP process must be given to the parents.

a. The notice(s) must be provided in the parents' native language or must be given using other means of communication, whenever necessary, to assure parental understanding.

b. The notice(s) must indicate the purpose, time, and location of the IEP meeting; who will be in attendance; the parents' right to take other participants to the meeting; the student's right to participate (when appropriate); and the name of the person in the LEA the parents can contact if and when they have questions or concerns.

c. The notice(s) must explain the procedural safeguards available to the parents: that they can negotiate the time and place of the IEP meeting, that they have the right to full and meaningful participation in the IEP decision-making process, that their consent is required before initial placement will be made, and that all information about the student shall be kept confidential.

d. If it appears that a student may be eligible to participate in alternate assessment, the notice must explain that data appear to support the student's participation in alternate assessment, that the students participating in alternate assessment are eligible to work toward a Certificate of Achievement, and that the decision for participation in alternate assessment will be made with the parent(s) at the IEP meeting.

e. Additionally, if the LEA has not already done so, the system must inform the parents of their right to an oral explanation of the evaluation report and of their right to an independent education evaluation (IEE) if the parents disagree with the current evaluation.

2. An IEP meeting(s) that results in a completed IEP/placement document must be held. The IEP meeting(s) should be a vehicle for communication between parents and school personnel to share formal and informal information about the student's needs, educational projections, and services that will be provided to meet the student's needs. The completed IEP/placement document is a formal record of the IEP team's decisions. The timeline for completion of the document is intended to ensure that there is no undue

delay in providing a free, appropriate public education (FAPE) for the student. The document is "completed" when the form has been completed and signed by the LEA's officially designated representative or director/supervisor of special education.

B. Additional Notes About Timelines

1. Summer recess. When an initial evaluation report has been completed within the 30 days prior to the summer recess or during the recess, the LEA may request, through written documentation, parental approval to delay the initial IEP meeting until the first week of the next school session. However, if the parents wish to meet during the summer recess, the LEA must ensure that the appropriate IEP team members are present.

2. Children approaching age 3 years. ChildNet eligible children who are "turning three-years-old" suspected of being eligible for Part B services must be referred to the LEA and the IEP team 10 months prior to their 3rd birthday. The date on which a child first becomes eligible for services may occur after the child's evaluation or last required re-evaluation. In such a case, a LEA has the following options:

a. to develop the IEP/placement document following the evaluation or re-evaluation and to indicate the date that services are to begin; or

b. to develop the IEP/placement document immediately before the LEA is required to provide services.

3. Parents refuse services. In some cases, when the LEA is in the process of offering FAPE to an eligible student (i.e., after an IEP has been developed), the parents will clearly indicate that they do not wish to have any special educational services for the student.

a. If the parent's decision is to withhold consent for the initial evaluation or initial placement of the student in a special educational program, the LEA may appeal to the appropriate state court. If the parent withholds consent for a reevaluation, the LEA may request a due process hearing following the procedures outlined in §507 of *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1463 (July 2004).

§305. Participants

A. At any initial IEP meeting, the following participants must be in attendance: an officially designated representative of the LEA, the student's regular education and special education teachers, the student's parent(s), and a person knowledgeable about the student's evaluation procedures and results. The student, as well as other individuals the parents and/or LEA may deem necessary, should be given the opportunity to attend. Documentation of attendance is required.

1. An officially designated representative of the LEA is one who is qualified to provide or supervise the provision

of specially designed instruction to meet the unique needs of students with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the LEA. The LEA may designate another LEA member of the IEP team to serve also as the agency representative, if the above criteria are satisfied. A LEA must have on file and must disseminate within the agency a policy statement naming the kinds of persons who may act as the official representative of the LEA. Representatives may include the director/ supervisor of special education, principals, instructional strategists, teachers, or any other LEA employee certified to provide or supervise special educational services. A member of the student's evaluation team may serve in this capacity.

2. Parents are equal participants in the IEP process in discussing the educational and related services needs of the student and deciding which placement and other services are appropriate. As such, one or both of the student's parents should participate in the initial IEP/placement meeting(s). Other team members must rely on parents to contribute their perspective of the student outside of school. Parental insight about the student's strengths and support needs, learning style, temperament, ability to work in various environments, and acquired adaptive skills is of vital importance to the team in making decisions about the student's needs and services. The concerns of the parents for enhancing the education of their child must be documented in the IEP.

a. *Parent*—a natural or adoptive parent of a child; a guardian, but not the state if the child is ward of the state; a person acting in the place of a parent of a child (such as a grandparent or stepparent with whom the child lives or a person who is legally responsible for the child's welfare); or a surrogate parent who has been appointed. A foster parent may qualify as a "parent" when the natural parents' authority to make educational decisions on the child's behalf has been extinguished under state law, and the foster parent has an ongoing, long-term parental relationship with the child; is willing to participate in making educational decisions in the child's behalf; and has no interest that would conflict with the interests of the child.

b. The LEA must take measures to ensure that parents and all other team members, including sensorially impaired and non-English-speaking participants, can understand and actively participate in discussions and decision making. These measures (i.e., having an interpreter or translator) should be documented. Local education agencies shall further ensure that, for those parents who cannot physically attend the IEP meeting(s), every effort is made to secure parental participation. After documenting attempts to arrange a mutually convenient time and place, several possibilities remain.

i. The meeting(s) may be conducted via telephone conference calls.

ii. The IEP team may consider parental correspondence to the school regarding the student's learning environment, any notes from previous parental conferences,

and any data gathered during the screening and evaluation period.

iii. Visits may be made to the parents' home or place of employment to receive parental suggestions.

c. If, however, every documented attempt fails and the IEP/placement document is developed without parental participation, the parents still must give written informed consent for initial placement before any special education or related services may begin.

d. When a student with disabilities has a legal guardian or has been assigned a surrogate parent by the LEA, that person assumes the role of the parent during the IEP process in matters dealing with special educational services. When a student with disabilities is emancipated, parental participation is not mandated. Additionally, if the LEA has been informed that a parent is legally prohibited from reviewing a student's records, that parent may not attend the IEP meeting(s) without permission of the legal guardian.

e. Beginning at least one year before the student reaches the age of majority, by the student's seventeenth birthday, the parents will be informed that the rights under Part B of the Act will transfer to the student, unless the student is determined incompetent under state law.

3. An evaluation representative is a required participant at an initial IEP meeting. The person may be a member of the pupil appraisal team that performed the evaluation or any person knowledgeable about and able to interpret the evaluation data for that particular student. The evaluation coordinator who coordinated the activities for the re-evaluation must be present at the reevaluation IEP meeting.

4. A regular education teacher is at least one of the student's regular teachers (if the student is, or may be, participating in the regular education environment). The teacher must, to the extent appropriate, participate in the development, review, and revision of the student's IEP including the determination of appropriate positive behavioral interventions and strategies for the student; the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student. When a regular education teacher calls for a reconvening of the individualized education program (IEP) team for any student with a disability assigned to his or her classroom on a full time basis in which the IEP requires an adjustment in the curriculum, instruction or services to be provided by the regular education teacher, this teacher shall participate on the IEP team and participate continuously thereafter for as long as the student is assigned to his or her classroom.

a. Thus, while a regular education teacher must be a member of the IEP team if the child is, or may be, participating in the regular education environment, the teacher need not (depending upon the child's needs and the purpose of the specific IEP team meeting) be required to participate in all decisions made as part of the meeting or to

be present throughout the entire meeting or attend every meeting. For example, the regular education teacher who is a member of the IEP team must participate in discussions and decisions about how to modify the general curriculum in the regular classroom to ensure the child's involvement and progress in the general curriculum and participation in the regular education environment.

b. In determining the extent of the regular education teacher's participation at IEP meetings, LEAs and parents should discuss and try to reach agreement on whether the student's regular education teacher, who is a member of the IEP team, should be present at a particular IEP meeting and, if so, for what period of time. The extent to which it would be appropriate for the regular education teacher to participate in IEP meetings must be decided on a case-by-case basis.

5. A special education teacher is at least one of the student's special education teachers, or when appropriate, at least one special education provider of the student.

a. For example, if a student's only disability is speech or language impairment, then the speech/language pathologist is considered the special education provider.

6. The student should be given the opportunity to participate in the development of the IEP. In many cases, the student will share responsibility for goals and objectives.

a. The LEA must invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be to consider transition services needs or needed transition services, or both. The LEA must invite the student and, as part of the notification to the parents of the IEP meeting, inform the parents that the LEA will invite the student to the IEP meeting.

b. Beginning at least one year before the student reaches the age of majority, by the student's seventeenth birthday, the student must be informed that his or her rights under Part B of the Act will transfer to him or her unless he or she has been determined incompetent under state law.

7. Other individuals can be invited, at the discretion of the parent or LEA, who have knowledge or special expertise regarding the student, including related service personnel as appropriate. The LEA also must inform the parents of the right of both the parents and the agency to invite other individuals who have knowledge or special expertise regarding the child, including related service personnel as appropriate to be members of the IEP team. The LEA may recommend the participation of other persons when their involvement will assist the decision-making process.

a. It is also appropriate for the agency to ask the parents to inform the agency of any individuals the parents will be taking to the meeting. Parents are encouraged to let the agency know whom they intend to take. Such cooperation can facilitate arrangements for the meeting and help ensure a productive, child-centered meeting.

b. The determination of the knowledge or special expertise of any individual described above shall be made by

the parent or LEA, whoever invited the individual to be a member of the IEP team.

c. When the LEA responsible for the initial IEP/placement process considers referring or placing the student in another LEA, the responsible LEA must ensure the participation of a representative of the receiving system at the IEP meeting.

d. The LEA must ensure the attendance of a representative of a private school if the student is voluntarily enrolled in a private school. If the representative cannot attend, the local education agency shall use other methods to ensure participation by the private school or facility, including individualized or conference telephone calls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1464 (July 2004), amended LR 31:913 (April 2005).

§307. Placement Decisions

A. The IEP team has the responsibility for determining the special educational needs and placement for a student with disabilities. Program decisions must be made and written on the IEP in the following areas that form the basis for the placement:

1. the student's strengths and support needs;
2. the concerns of the parents for enhancing the education of their child;
3. the results of the initial evaluation or most recent reevaluation of the student;
4. as appropriate, the results of the student's performance on any general state or district-wide assessment program;
5. the student's present levels of educational performance:
 - a. how the student's disability affects the student's involvement and progress in the general curriculum; and
 - b. for preschool students, as appropriate, how the disability affects the student's participation in appropriate activities;
6. the IEP team must also consider any of the following special factors:
 - a. in the case of a student whose behaviors impede his or her learning or that of others, if appropriate, strategies including positive behavioral intervention, strategies and supports to address that behavior;
 - b. in the case of a student with limited English proficiency, the language needs of the student as those needs relate to the student's IEP;
 - c. in the case of a student who is blind or visually impaired, provision of instruction in braille and the use of braille unless the IEP team determines - after an evaluation of the student's reading and writing skills, needs, and

appropriate reading and writing media (including an evaluation of the student's future needs for instruction in braille or the use of braille) - that instruction in braille or the use of braille is not appropriate for the student;

d. the communication needs of the student, and in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode;

e. whether the student requires assistive technology devices and services based on assessment/evaluation results;

f. in the case of a student who has health problems, the needs to be met during the school day. These needs would include such medical conditions as asthma, diabetes, seizures, or other diseases/disorders that may require lifting and positioning, diapering, assistance with meals, special diets, or other health needs;

7. the measurable annual goals, including benchmarks or short-term objectives, related to:

a. meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general curriculum;

b. meeting each of the student's other educational needs that result from the student's disability; and

c. appropriate activities for the preschool aged student;

d. IEP teams may continue to develop short-term instructional objectives or, as an alternative, develop benchmarks that should be thought of as describing the amount of progress the student is expected to make within specified segment of the year. Generally, benchmarks establish expected performance levels that allow for regular checks of progress that coincide with the reporting periods for informing parents of their child's progress toward achieving the annual goals. An IEP team may use either short-term objectives or a combination of the two, depending on the nature of the annual goals and needs of the child.

8. the special educational and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and the program modifications or supports for school personnel that will be provided for the student:

a. to advance appropriately toward attaining the annual goals;

b. to be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and

c. to be educated and participate with other students with and without disabilities in the activities,

9. the explanation of the extent, if any, to which the student will not participate with students without disabilities in the regular class and extracurricular and other nonacademic activities including:

a. any individual modifications and/or accommodations in the administration of state or district-wide assessments of student achievement that are needed in order for the student to participate in the assessment; and

b. the student's participation in a particular state or district-wide assessment of student achievement (or part of an assessment);

10. the anticipated frequency, location, and duration of the special educational services and modifications;

11. possible extended school year program (ESYP) eligibility;

12. the type of physical education program to be provided;

13. for each student beginning at age 14, transition service needs that focus on the student's courses of study; and

14. for each student beginning at age 16, the needed transition services including any interagency responsibilities or linkages.

B. The IEP team, following a discussion of the student's educational needs, must choose a setting(s) in which the educational needs will be addressed. The term *placement* refers to the setting or class in which the student will receive special educational services.

1. Placement decisions for students whose ages are 6-21. For the location of instruction/ services, IEP team members should consider the following.

a. Where would the student attend school if he or she did not have a disability?

b. Has the student, as a special education student, ever received special educational instruction or services within the general education environment?

c. What accommodations and modifications have been used to support the student as a special education student in the general education class?

d. After a review of the modifications and accommodations form of the IEP, what additional strategies and supports have been determined to facilitate the student's success in the general education setting?

e. If the student is not currently receiving instruction and/or services in a general education setting, what strategies could be used for providing services in the general education classroom?

f. Based on IEP goals and objectives or benchmarks, what the instructional setting(s) would support the achievement of these goals and objectives or benchmarks?

g. If the decision has been made to provide the student with instruction and/or services outside the general education setting, what specific opportunities will the student have for integration in general education activities?

2. Placement decisions for students whose ages are 3-5. For the location of instruction/ services, the IEP team should consider the following.

a. Where would the student spend the majority of the day if he or she did not have a disability (natural environment)?

b. Can the services identified on the IEP be provided in the student's natural environment?

i. If not, what changes should be made in that environment to enable the required services to be delivered there?

ii. If not, what programming and/or placement(s)/ service(s) options are necessary to meet the student's identified needs while providing meaningful opportunities for interactions with peers without disabilities?

c. What accommodations, supports, and/or related services are needed to meet the student's identified needs?

3. For students aged 6-21. Utilizing the above information, the IEP team should choose the most appropriate setting from the continuum below:

a. regular classroom (less than 21 percent of the day outside the regular class);

b. resource with regular classes (at least 21 percent, but no more than 60 percent of the day outside the regular class);

c. self-contained class on a regular campus (more than 60 percent of the day outside the regular class);

d. special school; or

e. hospital/homebound.

4. For Students Aged 3-5. In determining the appropriate setting for a preschool aged student, each noted setting must be considered; but the list should not be considered a continuum of least restrictive environment. The settings for preschool-aged students, three through five years, are defined as follows.

a. Early Childhood Setting. Students receive all of their special education and related services in educational programs designed primarily for children without disabilities. No education or related services are provided in separate special education settings. This may include, but is not limited to:

i. regular kindergarten classes;

ii. public or private preschools;

iii. Head Start Centers;

iv. child care facilities;

v. preschool classes offered to an eligible pre-kindergarten population by the public school system;

vi. home/early childhood combinations;

vii. home/Head Start combinations; and

viii. other combinations of early childhood settings.

b. Early Childhood Special Education Setting. Students receive all of their special education and related services in educational programs designed primarily for children with disabilities housed in regular school buildings or other community-based settings. No education or related services are provided in early childhood settings. This may include, but is not limited to:

i. special education classrooms in regular school buildings;

ii. special education classrooms in child care facilities;

iii. hospital facilities on an outpatient basis, or other community-based settings; and

iv. special education classrooms in trailers or portables outside regular school buildings.

c. Home. Students receive all of their special education and related services in the principal residence of the child's family or caregivers.

d. Part-Time Early Childhood/Part-Time Early Childhood Special Education Setting. Students receive services in multiple settings, such that: (1) general and/or special education and related services are provided at home or in educational programs designed primarily for children without disabilities, and (2) special education and related services are provided in programs designed primarily for children with disabilities. This may include, but is not limited to:

i. home/early childhood special education combinations;

ii. Head Start, child care, nursery school facilities, or other community-based settings with special education provided outside of the regular class;

iii. regular kindergarten classes with special education provided outside of the regular class; and

iv. separate school/early childhood combinations.

e. Residential Facility. Students receive all of their special education and related services in publicly or privately operated residential schools or residential medical facilities on an inpatient basis. This may include, but is not limited to:

i. hospitals; and

ii. nursing homes.

f. Separate School. Students receive all of their special education and related services in educational

programs in public or private day schools designed specifically for children with disabilities.

g. *Itinerant Service Outside the Home.* Students receive all of their special education and related services at a school, hospital facility on an outpatient basis or other location for a short period of time (no more than three hours per week). (This does not include children who receive services at home for three hours or less per week. This would be included in the home setting.) These services may be provided individually or to a small group of children. This may include, but is not limited to: speech instruction, APE and assistive technology up to three hours per week in a school, hospital, or other community-based setting. (A combination of services may not exceed three hours per week). Children receiving all of their special education and related services at a school, hospital facility on an outpatient basis, or other location for longer than three hours per week must be reported under early childhood special education setting or early childhood setting, depending on whether the program was designed primarily for students with or without disabilities.

h. *Reverse Mainstream Setting.* Students receive all of their special education and related services in educational programs designed primarily for children with disabilities, but that include 50 percent or more children without disabilities.

C. The official designated representative shall be knowledgeable about placement considerations and shall be responsible for informing the IEP team members. The IEP team must participate in decisions made about the placement; however, the LEA has the right to select the actual school site in view of committee decisions.

NOTE: See "Forms and Instructions for Use," Section 2, for the complete instructions for writing the IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1466 (July 2004), amended LR 31:913 (April 2005).

§309. Additional Clarification

A. Although throughout Louisiana most students with disabilities are served in their neighborhood schools, there are some extenuating circumstances that impact the decision to serve a student in a school other than his or her neighborhood school.

B. The following is provided as an example. In a small system, there may be only four multidisabled students who need a multidisabled self-contained class. The local education agency may establish one classroom system wide. Those multidisabled students could be grouped together on a centrally located campus as age-appropriate as possible. Because of the limited number of students, the age span may be greater than the 3-year span. In this situation, ages may be from 10-14 years, with two children being 10-years-old, one being 11, and one being 14. If the administration decided to locate this class on an elementary K-6 campus because the majority of the class is of elementary age, there could be

adequate justification to allow the 14-year-old to remain on the elementary campus. This placement, of course, is not a desirable situation but a necessity in some cases.

C. In addition to the questions on the IEP and Site Determination Form, the following issues must be considered:

1. students should be placed in programs on the basis of their unique needs, not as a result of their particular disabling condition;
2. placement cannot be based on either a particular local education agency's special education delivery system or on the availability of related services;
3. in order for effective integration, students should be served in schools where the ratio of the student with disabilities is comparable to the overall regular/special education ratio of the local education agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1468 (July 2004).

§311. Related Services Decisions

A. *Related Services*—transportation and such developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit from special education. A LEA, as part of its requirement to provide a free, appropriate public education (FAPE), must provide any related service for which there is a documented need. However, for certain related services, specific eligibility criteria must be met. The decision regarding related services must be made in view of each student's unique needs. Sources of documentation can be the individual evaluation report and any subsequent evaluation reports submitted by therapists, physicians, psychologists, and so forth. Examples of related services may include speech/language pathology services, assistive technology, physical or occupational therapy, audiological services, orientation and mobility training, interpreter and counseling services, and transportation services.

B. The IEP team must consider each related service that is recommended on the evaluation report(s) and document its decisions on the IEP form. For example, the team must:

1. list all services recommended by the team and the service provision schedules, dates, and location, etc.;
2. explain the team's decisions not to include a recommended related service;
3. explain delays in providing any related service listed on the IEP.
 - a. This delay, or hardship, in no way relieves a system from providing the service and from documenting every effort to provide it in a timely manner.
 - b. The participation of related service personnel is extremely important during the IEP meeting. Involvement should be through either direct participation or written recommendations.

C. Additional Notes About Related Services

1. Adapted physical education (APE) is not a related service; APE is a direct instructional program. A student who requires only adapted physical education may be eligible for related services, since adapted physical education is a direct instructional program.

2. A student who is identified with only a speech or language impairment may be eligible for other related services, since in this case the speech therapy is the direct special educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1468 (July 2004), amended LR 31:914 (April 2005).

§313. Parental Consent

A. A LEA must obtain formal parental consent before it can initially provide a student with special education and related services in any setting. Consent includes the following:

1. the parent and/or student has been fully informed of all relevant information in a manner that is clearly understandable to the parent and/or student; and

2. the parent and/or student formally agrees in writing.

B. After the parent and/or student has given written consent, the IEP is in effect. The parent and/or student must be provided a completed copy of the IEP/placement document signed by the official designated representative of the LEA.

NOTE: The student's consent is needed once the student reaches the "age of majority."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1468 (July 2004).

§315. Parental Withholding of Consent

A. Parents may disagree with all or some part(s) of the initial program, placement, or related services proposals. The LEA and the parents should make conciliatory attempts to resolve the disputes, including making modifications to the proposed program, placement, and related services. A LEA may not use a parent's refusal to consent to one service or activity to deny the parent or student any other service, benefit, or activity of the LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1469 (July 2004).

§317. Mediation

A. Mediation is an informal, voluntary process by which the parent and the LEA are given an opportunity, through the help of a trained mediator, to resolve their differences and find solutions to enhance the overall learning environment for the student. Differences may arise in the planning and

implementing of programs for students with disabilities. It is important for parents and LEAs to have an opportunity to present their viewpoint in a dispute.

1. See Louisiana's Educational Rights of Exceptional Children and the Mediation Services for Students with Exceptionalities brochure for more information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1469 (July 2004).

§319. Due Process

A. The parents and the LEA both have the right to an "impartial due process hearing" when disagreements arise between the parent and the LEA, relative to initiating or changing the identification, evaluation, or educational placement of a student with a disability. Due process hearings may be initiated by the parent or the LEA.

1. See Louisiana's Educational Rights of Exceptional Children and the Special Education Impartial Due Process Hearing brochure for more information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1469 (July 2004).

§321. Implementation of the IEP

A. Implementation of the IEP means that the student begins participating in the special education placement and receives the related services as written on the IEP/placement document. A LEA must begin providing services as stated on the IEP within 10 calendar days. The date of initiation of services shall be noted on the IEP. When meetings occur during the summer or other vacation periods, a delay may occur. When meetings to develop the initial IEP/placement document occur just prior to the summer vacation, the date of implementation of services may be delayed to the beginning of the next school year if the parent(s) agree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1469 (July 2004).

Chapter 5. Review IEP Development

§501. Responsibilities and Timelines

A. A LEA is required to initiate and conduct IEP meetings periodically, but not less than annually, to review each student's IEP in order to determine whether the annual goals for the student are being achieved and to revise the IEP as appropriate. The LEA must notify parents of the review IEP meeting or the review/reevaluation IEP meeting in accordance with the same procedures as the initial IEP.

B. An additional IEP/placement review meeting is not required when a LEA elects to move the student to another school site within the agency when all of the information on the IEP remains the same and the effect of the program has not been changed.

C. The IEP team shall:

1. review the student's progress toward achieving the annual goals and objectives/benchmarks;
2. review the student's progress in the general education curriculum;
3. discuss any lack of expected progress toward the annual goals and in the general education curriculum;
4. review the results of the student's performance on any state or district-wide assessment;
5. review the results of any reevaluation;
6. review information about the child provided to, or by, the parents;
7. discuss the student's anticipated needs;
8. review the student's special educational and related service needs; for the preschool-aged child, address his or her developmental needs;
9. incorporate, as needed, any behavior interventions and strategies that should be used;
10. make updated decisions about the student's program, placement, and related services;
11. consider whether the child requires assistive technology devices and services;
12. for each student beginning at age 14, discuss transition service needs that focus on the student's courses of study;
13. for each student beginning at age 16, discuss the needed transition services including any interagency responsibilities or linkages;
14. in making decisions for location of instruction/services, refer to pages 19-21 of this handbook for guidance;
15. discuss any other matters.

D. A review meeting must be conducted in addition to the required annual review when:

1. a student's teacher feels the student's IEP or placement is not appropriate for the student; or
2. the student's parents believe their child is not progressing satisfactorily or that there is a problem with the student's IEP;
3. the LEA proposes any changes regarding program or placement, such as to modify, add, or delete a goal or objective; to add or delete a related service; or to discuss the need for extended school year services;
4. the behavior of the student warrants a review by the IEP team to decide on strategies including positive behavioral intervention, strategies, and supports to address the behavior;
5. either a parent or a public agency believes that a required component of the student's IEP should be changed;

the LEA must conduct an IEP meeting if it believes that a change in the IEP may be necessary to ensure the provision of FAPE;

6. a hearing officer orders a review of the student's IEP/placement document;

7. an out-of-district placement or referral is being proposed:

a. a review IEP meeting must be conducted as part of the reevaluation process;

b. in the cases listed above, it may not be necessary to rewrite the entire IEP/placement document. However, the following documentation must be provided:

i. signatures of the team members;

ii. the date of the meeting;

iii. the changes made in the IEP; and

iv. the dated signatures of the official designated representative of the system and the parent who authorized the change.

c. in the case in which the IEP/placement document is entirely rewritten, the date of that meeting shall become the anniversary date for the next annual review meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1469 (July 2004), amended LR 31:914 (April 2005).

§503. Participants

A. The LEA must ensure there is attendance by an officially designated representative of the system, the student's regular education and special education teachers, the parents, and the student, as appropriate. At the discretion of the parent(s) or the LEA, other individuals who have knowledge or special expertise regarding the student may attend. The evaluation coordinator who coordinated the activities for the re-evaluation must be present at the reevaluation IEP meeting. A representative of another LEA or approved facility may be included if a placement in or referral to another LEA is proposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1470 (July 2004).

§505. Placement Decisions

A. The IEP team must address the placement of the student according to the same placement guidelines required for an initial IEP meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1470 (July 2004).

Chapter 7. Interim IEP Development

§701. Responsibilities and Timelines

A. The interim IEP provides a basis on which the student may begin to receive special educational and related services and provides an appraisal program to gather assessment data for the individual evaluation process.

B. A student must be offered enrollment in a LEA. This enrollment process, from initial entry into the LEA to placement, shall occur within 10 school days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1470 (July 2004).

§703. Placement Decisions

A. Local supervisors of special education may approve enrollment in special education after existing student information has been reviewed by pupil appraisal personnel. An interim IEP would be developed and formal parental approval obtained. The interim IEP remains in effect as long as the evaluation is in process and may be revised as necessary. During this time all regulations pertaining to students with disabilities shall apply. The interim IEP shall not exceed the duration of the evaluation.

B. Often, discussion about the current performance, goals, and objectives for the student will have to be conducted without the benefit of integrated assessment data or teacher observation. To gather information about current performance, the parent may be the prime source of information about the student's skills, development, motivation, medical history, etc. The goals and objectives should address the student's educational program during the assessment process. Related services may be provided for diagnostic purposes. When available information indicates that related services are required, services should be provided. The student's performance during an interim placement must be documented by the teacher and pupil appraisal personnel. This documentation should provide meaningful data for determining an appropriate program and placement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1470 (July 2004).

§705. Parental Consent

A. Parental consent for the interim placement and related services must be obtained by parental signature on the IEP form. Parents should be informed that the student will exit from the special educational program if the student is found to be ineligible for special educational services according to the criteria of the *Pupil Appraisal Handbook*. If the student is eligible for special educational services, an initial IEP/placement meeting will be conducted within 30 calendar days from the date of dissemination of the written evaluation to the LEA's special education administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1470 (July 2004).

Chapter 9. LEAP Alternate Assessments

§901. Participation in Assessments

A. All special education students must participate in statewide assessments.

B. Students are to take the test that corresponds to the grade in which they are enrolled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3102 (December 2005).

§903. Types of Alternate Assessments

A. LEAP Alternate Assessment, Level 1 (LAA 1). The LAA 1 is a performance-based student assessment that evaluates each eligible special education student's knowledge and skills in targeted areas. It is an "on-demand" assessment, which means the test administrator directs the student to perform a specific task and then scores the student's performance after the task is completed.

B. LEAP Alternate Assessment, Level 2 (LAA 2). The LAA 2 is a criterion-referenced test designed for students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3102 (December 2005).

§905. Participation Criteria

A. LEAP Alternate Assessment, Level 1 (LAA 1)

1. Only students with the most significant cognitive disabilities are eligible to participate in LEAP Alternate Assessment, Level 1 (LAA 1).

a. The student's impairments cause dependence on others for most, if not all, daily living needs, and the student is expected to require extensive ongoing support in adulthood.

b. The student's instructional program emphasizes life skills and functional applications of the general curriculum.

c. The student requires extensive instruction on functional skills in multiple settings (e.g., school, work, home, community) to acquire, maintain, and generalize skills necessary for application in school, work, home, and community environments.

d. Current longitudinal data (e.g., classroom observation, task analyses, progress on IEP objectives, evaluations, and parental information) indicate the student should participate in LAA 1.

2. Student Safeguards

a. The decision for LAA 1 is not solely based on the student's placement.

b. The decision for LAA 1 is not solely based on the student's disability according to Bulletin 1508.

c. The decision for LAA 1 is not solely based on excessive or extended absences.

d. The decision for LAA 1 is not solely based on social, cultural, and/or economic differences.

e. The decision for LAA 1 is not based on its anticipated impact on School Performance Scores.

f. The decision for LAA 1 is an IEP team decision based on the needs of the student; it is not an administrative decision.

3.a. A student with one of the three exceptionalities below is considered to have a significant cognitive disability:

- i. moderate mental disability;
- ii. severe mental disability;
- iii. profound mental disability; or

b. a student with one of the three exceptionalities below may function like a student with a significant cognitive disability:

- i. multiple disabilities;
- ii. traumatic brain injury;
- iii. autism; or

c. it is possible, though unlikely, that the LEAP Alternate Assessment may be the appropriate assessment for a student with some other exceptionality who functions like a student with a significant cognitive disability.

B. LEAP Alternate Assessment, Level 2 (LAA 2)

1. The student scored at the *Unsatisfactory* level in English language arts and/or mathematics on the previous year's LEAP/iLEAP/GEE or participated in the LAA 1 or for the 2005-06 school year only, the student's previous year's

Total(s) on The Iowa Tests in language, reading, and/or mathematics was/were at or below the fifth percentile.

2. The student's IEP reflects a functioning grade level in English language arts (including reading) and/or mathematics at least three grade levels below the actual grade level in which he or she is enrolled.

3. The student's instructional program is predominately academic in nature, and may include application of academic content across environments to ensure generalization of skills.

4. The decision to test a student in LAA 2 is not based on a disability category.

5. The decision to test a student in LAA 2 is not based on placement setting.

6. The decision to test a student in LAA 2 is not determined administratively.

C. LAA 1 and LAA 2 Participation Criteria forms can be located in Bulletin 1530, Section 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3102 (December 2005).

§907. Test Accommodations

A. The assessment in which the student is to participate and any accommodations the student is to receive for instruction and assessment must be documented annually on the program/services page of the student's IEP.

B. Test accommodations cannot be different from or in addition to the accommodations indicated on the student's IEP and provided in regular classroom instruction and assessment.

C. Test accommodations are described in Bulletin 118, Statewide Assessment Standards and Practices in Chapter 33.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3103 (December 2005).

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